



# CITY OF HOUSTON

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**TO:** Neighborhood Preservation Subcommittee

**FROM:** Robert M. Litke, Director

**DATE:** April 15, 2005

**SUBJECT:** Neighborhood Preservation Issue Paper

The following commentary is intended to help focus and facilitate discussion within the committee.

A basic duty of the Planning Commission is to consider applications for approval of subdivision plats. The procedures, rules, regulations and standards governing the subdivision of land are set out in chapter 42 of the city code of Ordinances. The authority for this activity is derived from Chapter 212 of the State Local Government Code. A critical element of this authority is that the commission **must** act within 30 days of receipt of a completed application and if the plat meets the city's requirements, it **must** be approved.

The only discretion the Planning Commission has on plat approvals is when an applicant seeks a variance from the rules. Under that circumstance, the commission can approve the variance, with or without special conditions, or disapprove the variance and approve the plat subject to meeting all standard requirements. When setting special conditions, there must be some reasonable relationship to the issue at hand.

By way of illustration: an applicant requests a variance to reduce the setback on a parcel from 25 feet to 10 feet. The variance would place the ground floor of a parking garage that much closer to pedestrians on the street. The commission grants the variance subject to a special condition that the planning director must approve a screening plan so that the ground floor of the garage is not visible from the sidewalk. On the other hand, if there was opposition to the garage as a land use, the commission could not grant the variance with a special condition that the land use be changed to something other than a garage.

Obviously, the requirements for subdivision plats can be changed (subject to conformance with state law), but platting cannot be a replacement for zoning, which is a comprehensive system of land use regulation. Even without zoning, Houston does have some land use regulations. The following is a list of land uses that are subject to limited regulation by specific ordinance:

Automotive storage lots/salvage yards  
Hazardous materials users  
Sexually oriented businesses  
Towers  
Hotels/Motels  
Liquor license establishments

A set of urban area planning standards was created to differentiate between suburban and urban areas. The urban area was defined as inside Loop 610. Everything else was suburban. Higher density was facilitated in the urban area through a variety of adjusted standards dealing with setbacks, open space requirements, smaller minimum lots sizes, and lot coverage limitations. A limitation on single family density has been set at 27 units per acre. There is no limitation on the number of multi-family units per acre.

The demand for urban living is ratcheting up land prices making it harder and harder for developers to make the economics work, especially as it applies to single family housing in the urban area where density is limited to 27 units per acre. In some neighborhoods this is undesirable, but in others it could go even higher. However, chapter 42 is not structured to apply density limitations on a neighborhood basis. Either the urban rules apply or the suburban, we don't have an alternative and we need one.

In a strong property rights state, the balance between protecting neighborhoods and individual property rights is in constant flux. A good example of this "tug of war" can be found in the antagonism between historic preservationists and property rightists. The past inability to achieve some balance between the two positions has resulted in an inability to take any steps to strengthen what is generally accepted as a rather toothless historic preservation ordinance in Houston.

On the other hand, significant steps have been taken to protect neighborhood character, on a block by block basis, through the special provisions in chapter 42 dealing with prevailing setbacks and prevailing lots sizes. These particular provisions, however successful they have been to date, do have problems that we need to address. For example, the term "prevailing," as the most frequently occurring, can lead to a situation where setbacks or lot sizes on one or two blocks vary on every lot but two. The two might be quite out of line with all the other properties but they constitute the "most frequently occurring and therefore set the prevailing line or size. That outcome would not necessarily maintain the character of the street in question. A draft proposal for changes to those provisions is enclosed as Attachment A.

We have thought long and hard about ways to enhance protection of neighborhoods without getting into comprehensive land use controls. Deed restrictions are widely used in Houston, but they are only as good as the enforcement behind them and enforcement is expensive or dependent upon limited city resources applied only against limited types of violations: land use, lot size, setbacks, number of buildings on a lot and building height.

The true strength of the prevailing building lines or lot sizes concepts lies in an active and organized neighborhood. The same is largely true with deed restrictions which require neighborhood vigilance against violations. But are there protective mechanisms available that can be put into play

automatically regardless of neighborhood activism or lack thereof? A proposal to accomplish that based on performance standards and not land use is set out in Attachment B.

Parking is an issue that cuts across many aspects of the planning commission's committee structure. In an auto dominated region knitted together by freeways and major thoroughfares there are few convenient opportunities for people to go from place to place by walking or by public transportation (with the notable exception of the Main Street light rail line). Since the auto is the dominant means of choice (whether by default or not), at each destination point in a trip, there must be a place to park-- on street or off-street, on grade or in a garage.

Minimum off street parking requirements for single family development were set out in chapter 42—two spaces for each dwelling unit—in 1982. It was not until 1989 that the city established specific off- street parking requirements in chapter 26 for a wide range of other uses. Since that time a few changes have been made in city requirements, but they have been relatively minor.

In many of our neighborhoods, particularly inside the loop, changes are taking place as older properties are redeveloped at higher densities. Our parking requirements dictate two parking spaces per single family unit and for multi-family, the requirements are based upon bedroom counts, but there are no provisions for guest parking. As density increases and curb spaces are taken up, what will happen?

The competition for street space is heating up and in many areas the amount of curb-side parking is diminishing. Higher density inner city development creates a need for more guest parking accommodations in new residential development but we have no such requirements. Redevelopment and in-fill development increases the demand for new retail/commercial services. Many long term neighborhood businesses do not have sufficient on site parking. The result, in many areas is an increase in the need and competition for on-street parking.

In 2001, city council adopted an ordinance enabling the creation of special parking permit areas designed to eliminate the competition between residents and non-residential parkers (from nearby businesses or even commuters) for on street parking on residential streets. This permit parking program (chapter 45 of the city code) has been beneficial in many neighborhoods but in some it is exacerbating the problems of competition for space. As originally designed, the program did not take into account neighborhood business issues. Should it be redesigned? Is there a need to re-examine neighborhood business parking requirements?

Should we leave it to the market to resolve, as it will over time, or should we consider the affect on a neighborhood?

RML/tg

attachments: Prevailing Building Line and Lot Size  
Performance Standards  
Decal Parking Ordinance  
Decal Parking Area Map